



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

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## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

**Requestor Name**

PHILLIP G. DALEY, MD

**Respondent Name**

WAUSAU UNDERWRITERS INSURANCE

**MFDR Tracking Number**

M4-11-3785-01

**Carrier's Austin Representative**

Box Number 01

**MFDR Date Received**

JUNE 29, 2011

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "Carrier denied procedure 29875/59 as bundled to 29800. Both codes were done in separate compartments therefore should not be considered bundled."

**Amount in Dispute:** \$1,000.31

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "Liberty Mutual denied CPT 29875 59 LT [Arthroscopy, knee, surgical; synovectomy, limited (eg, plica or shelf resection)(separate procedure) as a separate independent procedure is considered an integral part of the total services performed and does not warrant a separate charge. (U008). The 59 Modifier is not supported as this is a separate procedure code."

**Response Submitted by:** Liberty Mutual Insurance

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
February 3, 2011	CPT Code 29875-59-LT "Arthroscopy, knee, surgical; synovectomy, limited (eg, plica or shelf resection) (separate procedure)."	\$1,000.31	\$0.00

### **FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

**Background**

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §134.203, effective March 1, 2008, sets the reimbursement guidelines for the disputed service.
- The services in dispute were reduced/denied by the respondent with the following reason codes:
  - B15-Payment adjusted because this procedure/service is not paid separately.
  - U008-This separate independent procedure is considered an integral part of the total services performed and does not warrant a separate charge.

## **Issues**

Is the value of CPT code 29875 included in the value of another service billed on the disputed date?

Is the requestor entitled to reimbursement?

## **Findings**

28 Texas Administrative Code §134.203(b)(1) "For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following: Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules."

According to the explanation of benefits, the respondent denied reimbursement for code 29875-LT-59 based upon reason codes "B15, and U008."

On the disputed date of service, the requestor billed CPT codes 29880-LT and 29875-LT-59.

The requestor contends that reimbursement is due because "Code 29880 was performed in the medial and lateral compartments, whereas code 29875/59 was done in the patella compartment for removal of synovectomy."

Per CCI edits, CPT code 29875 is a component of CPT code 29880; however, a modifier is allowed to differentiate the service. A review of the requestor's billing finds that the requestor appended modifier "59-Distinct Procedural Service" to CPT code 29875.

Modifier 59 is defined as "Under certain circumstances, it may be necessary to indicate that a procedure or service was distinct or independent from other non-E/M services performed on the same day. Modifier 59 is used to identify procedures/services, other than E/M services, that are not normally reported together, but are appropriate under the circumstances. Documentation must support a different session, different procedure or surgery, different site or organ system, separate incision/excision, separate lesion, or separate injury (or area of injury in extensive injuries) not ordinarily encountered or performed on the same day by the same individual. However, when another already established modifier is appropriate it should be used rather than modifier 59. Only if no more descriptive modifier is available, and the use of modifier 59 best explains the circumstances, should modifier 59 be used."

The respondent maintains the denial of payment for code 29875 based upon "If the code descriptor of a HCPCS/CPT code includes the phrase, 'separate procedure', the procedure is subject to CCI edits based on this designation."

The National Correct Coding Initiative Manual defines "separate procedure" as "The narrative for many HCPCS/CPT codes includes a parenthetical statement that the procedure represents a "separate procedure". The inclusion of this statement indicates that the procedure can be performed separately but should not be reported when a related service is performed. A "separate procedure" should not be reported when performed along with another procedure in an anatomically related region through the same skin incision or orifice, or surgical approach."

The Division finds that because code 29875 has the parenthetical statement "separate procedure" the CCI policy applies. Both procedures code 29880 and 29875 were performed on the same anatomically related region (knee); therefore, 29875 cannot be reported with 29880 and the use of modifier 59 is not supported. As a result, reimbursement is not recommended.

## **Conclusion**

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is not due. As a result, the amount ordered is \$0.00.

## ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

### Authorized Signature

_____	_____	06/13/2014
Signature	Medical Fee Dispute Resolution Officer	Date

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**